

SENATE BILL 643

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II

2004 Regular Session
4r1645
CF 4r2066

By: **Senator Astle**

Introduced and read first time: February 6, 2004

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Mortgage Lenders - Sole Proprietors - Qualifications for Licensure**

3 FOR the purpose of authorizing the Commissioner of Financial Regulation to issue a
4 mortgage lender license to an applicant who is a sole proprietor and who does
5 not meet a certain experience requirement under certain circumstances;
6 specifying the conditions under which a sole proprietor may be licensed under
7 this Act; prohibiting a sole proprietor who is licensed under this Act from aiding
8 or assisting a borrower to obtain a loan from a financial institution other than
9 the financial institution identified in the license application; prohibiting a sole
10 proprietor who is licensed under this Act from being compensated for mortgage
11 brokerage activities on a certain basis; prohibiting a sole proprietor who is
12 licensed under this Act from handling borrower or other third party funds in
13 connection with the brokering or closing of a mortgage loan with a certain
14 exception; prohibiting a sole proprietor who is licensed under this Act from
15 making mortgage loans; and generally relating to the qualifications for licensure
16 of sole proprietors as mortgage lenders.

17 BY repealing and reenacting, with amendments,
18 Article - Financial Institutions
19 Section 11-506
20 Annotated Code of Maryland
21 (2003 Replacement Volume)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Financial Institutions**

25 11-506.

26 (a) To qualify for a license, an applicant shall satisfy the Commissioner that
27 the applicant is of good moral character and has sufficient financial responsibility,
28 business experience, and general fitness to:

29 (1) Engage in business as a mortgage lender;

1 (2) Warrant the belief that the business will be conducted lawfully,
2 honestly, fairly, and efficiently; and

3 (3) Command the confidence of the public.

4 (b) (1) [To] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, TO
5 qualify for a license, the applicant shall satisfy the Commissioner that the applicant
6 has at least 3 years of experience in the mortgage lending business.

7 (2) If the applicant is a sole proprietor, the applicant shall have the
8 required experience.

9 (3) If the applicant is a joint venture, or general or limited partnership,
10 at least one of the coventurers or general partners shall have the required experience.

11 (4) If the applicant is a business entity of any other kind, type, or
12 classification, at least one of the principal officers or members shall have the required
13 experience.

14 (C) (1) THE COMMISSIONER MAY ISSUE A LICENSE TO AN APPLICANT WHO
15 IS A SOLE PROPRIETOR AND WHO DOES NOT MEET THE EXPERIENCE REQUIREMENT
16 UNDER SUBSECTION (B) OF THIS SECTION IF:

17 (I) THE APPLICANT AGREES TO LIMIT THE APPLICANT'S
18 ACTIVITIES TO BROKERING MORTGAGE LOANS MADE BY A SINGLE FINANCIAL
19 INSTITUTION IDENTIFIED UNDER § 11-502(B)(1) OF THIS SUBTITLE;

20 (II) THE FINANCIAL INSTITUTION IS IDENTIFIED IN THE
21 APPLICANT'S APPLICATION;

22 (III) THE APPLICANT MEETS ALL OTHER REQUIREMENTS FOR
23 LICENSURE AS A MORTGAGE LENDER UNDER THIS SUBTITLE;

24 (IV) THE APPLICANT HAS SUCCESSFULLY COMPLETED AT LEAST 20
25 HOURS OF CLASSROOM INSTRUCTION IN RESIDENTIAL MORTGAGE LENDING
26 COURSES AS PROVIDED IN REGULATIONS ADOPTED BY THE COMMISSIONER;

27 (V) AN AUTHORIZED REPRESENTATIVE OF THE FINANCIAL
28 INSTITUTION SIGNS THE LICENSE APPLICATION; AND

29 (VI) THE FINANCIAL INSTITUTION AGREES TO:

30 1. SUPERVISE THE APPLICANT AS REQUIRED BY THIS
31 SUBTITLE; AND

32 2. BE HELD JOINTLY AND SEVERALLY LIABLE WITH THE
33 APPLICANT FOR CLAIMS ARISING OUT OF THE APPLICANT'S MORTGAGE BROKERING
34 ACTIVITIES.

35 (2) A SOLE PROPRIETOR WHO IS ISSUED A LICENSE UNDER THIS
36 SUBSECTION MAY NOT:

1 (I) AID OR ASSIST A BORROWER TO OBTAIN A LOAN FROM A
2 FINANCIAL INSTITUTION OTHER THAN THE FINANCIAL INSTITUTION IDENTIFIED IN
3 THE APPLICATION FOR THE LICENSE;

4 (II) BE COMPENSATED FOR MORTGAGE BROKERAGE ACTIVITIES ON
5 A BASIS THAT DEPENDS ON THE LOAN AMOUNT, INTEREST RATE, FEES, OR OTHER
6 TERMS OF THE BROKERED LOAN;

7 (III) HANDLE BORROWER OR OTHER THIRD PARTY FUNDS IN
8 CONNECTION WITH THE BROKERING OR CLOSING OF MORTGAGE LOANS, EXCEPT
9 THAT THE SOLE PROPRIETOR MAY FORWARD TO THE FINANCIAL INSTITUTION A
10 CHECK FROM THE BORROWER MADE PAYABLE TO THE FINANCIAL INSTITUTION FOR
11 COSTS IN CONNECTION WITH AN APPLICATION FOR A MORTGAGE LOAN; OR

12 (IV) MAKE MORTGAGE LOANS.

13 [(c)] (D) The Commissioner may deny an application for a license to any
14 person who has been officially reprimanded or has committed any act that would be a
15 ground for suspension or revocation of a license under this subtitle.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2004.